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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Contribution from the Conference on Security and Cooperation in Europe

1. The attention of the Preparatory Committee is drawn to the attached contribution, entitled "A contributing paper for the World Conference on Human Rights" submitted by the Office for Democratic Institutions and Human Rights of the Conference on Security and Cooperation in Europe.

2. The paper describes the activities of the Warsaw-based Office for Free Elections (OFE) which, since April 1991, has organized successful seminars and observer assistance programmes in Bulgaria, Poland, Albania, Romania, Estonia, Georgia, Lithuania and the former republics of Yugoslavia. It has also provided expert assistance, when requested, on draft electoral laws. The OFE was transformed into the Office for Democratic Institutions and Human Rights (ODIHR), when it assumed broader responsibilities within the CSCE's "Human Dimension" mechanism negotiated at the Vienna Follow-up Meeting (1986-1989). Under this mechanism, a mission may be sent to carry out an investigative mission in a State and to report and propose solutions to possible human rights problems. If a State refuses a mission on its territory, a mandatory mission may be dispatched with the required support of other CSCE States.

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This mechanism has been implemented as concerns reports of atrocities and attacks on unarmed civilians in Croatia and Bosnia-Herzegovina, as regards the compatibility of Estonian legislation with international human rights norms, and as regards the implementation of minority rights in Moldova.

3. The ODIHR has also established a database in Warsaw which deals primarily with elections but also other matters such as democratic institution-building, human rights, census taking and national minorities. As regards the latter, in July 1992, the CSCE created the post of High Commissioner on National Minorities, whose mandate is to promote dialogue among interested parties in order to avoid possible conflict. In December 1992 the Stockholm Council of Foreign Ministers appointed former Dutch Foreign Minister Max van der Stoel as the CSCE High Commissioner for National Minorities.

4. At the 1992 CSCE Helsinki Summit, the participating States declared the CSCE to be a regional arrangement under Chapter VIII of the Charter of the United Nations and called for closer cooperation with the United Nations. The CSCE and the United Nations are currently cooperating in implementing United Nations resolutions on the conflict in Bosnia-Herzegovina.

THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS

A CONTRIBUTING PAPER FOR THE WORLD CONFERENCE ON HUMAN RIGHTS

Warsaw, Poland
April 1993

Introduction

Since the early 1970s, the Conference on Security and Co-operation in Europe has been an on-going, multilateral security forum involving Europe and North America. The Helsinki Process (as the CSCE is often called) has provided a useful instrument to influence East-West relationships. Keeping alive dialogue and a minimum of co-operation in times of tensions, it has also served as an ideological battleground between western governments seeking to undermine the legitimacy of communist regimes and the East Bloc aiming at the recognition of its post-war territorial status. With consensus among the participating States required for all decisions, the Helsinki Final Act of 1975 included a comprehensive code of conduct encompassing major areas of international relations, such as security matters, humanitarian concerns, aspects of economic relations, information, education and culture.

At the Meeting of Heads of State and Governments of the CSCE participating States in Paris (November 1990), a new Charter of principles was adopted which took stock of the changes that had taken place in Europe. These changes opened a new opportunity to establish institutional arrangements in the field of political and military security, as well as in the field of the human dimension. The Paris Charter addressed a variety of issues ranging from security, human rights, free and fair elections, the rule of law, democratic institutions to economic liberty, culture and the environment. To meet the challenges of the changing European political environment, the leaders of the CSCE States agreed to create institutional structures within the CSCE, such as the Office for Free Elections, later renamed the Office for Democratic Institutions and Human Rights in Warsaw, the CSCE Secretariat in Prague, and the Conflict Prevention Center in Vienna. In attempts to add to further improvements in the operational capacity of the CSCE, a decision has been made at a recent CSCE Council Meeting (Stockholm, Dec. 1992) to establish the post of Secretary General, who will also be responsible, among other tasks, for the management of CSCE structures and operations.

The Office for Democratic Institutions and Human Rights, which is responsible for the "Human Dimension" of the CSCE -- furthering human rights, democracy, and the rule of law, acts both independently and at the direction of the CSCE's Committee of Senior Officials. The ODIHR's broad range of responsibilities include: monitoring the implementation of the CSCE Human Dimension commitments; managing the "Human Dimension Mechanism;" organizing international seminars on the human dimension, including seminars for the newly admitted participating States; supporting the new CSCE High Commissioner on National Minorities; serving as a clearinghouse for information on democracy-building programs. At the same time, the ODIHR maintains responsibilities stemming from its original mandate as the Office for Free Elections, continuing to work towards the further establishment of a tradition of democratic elections in the region by

organizing seminars, arranging exchanges of experts, and assisting international election observers. In addition, in accordance with the Stockholm Council Meeting of December 1992, the preparations for the establishment of the Foundation for Promoting Human Rights in the CSCE has been initiated.

Office for Free Elections

Being essentially a political process, the CSCE owes its involvement in election rights to the new political landscape that emerged in the early 1990's with the crumbling of the old East-West divide and the support for democracy in Eastern Europe and the former Soviet Union. The CSCE Charter of Paris (Nov. 1990) gave a solemn endorsement to the new standards on elections elaborated at the CSCE Copenhagen Meeting of the Conference on the Human Dimension (June 1990). In its opening chapter (paragraph 5.1) the CSCE scope is further extended to add concern for the freedom of expression of electors in the choice of their representatives. The new CSCE standards meant the necessity to monitor these new norms; and the presence of observers during the electoral process constituted the first readily available means of some kind of political compliance. The endorsement by international observers of a democratically contested election is essential to the new governments, inasmuch as the withdrawal of support by international observers for the electoral process may be a critical arm against governments at home and internationally. The procedure for compliance with election rights, as envisaged in various declarations, resulted in the creation of the CSCE Office for Free Elections in Warsaw.

With the OFE beginning its work in April 1991, its original mandate was to assist the new democracies in Europe in further establishing a tradition of free elections and, whenever possible, to provide assistance to new democracies in the field of electoral administration and coordination among individuals and groups monitoring electoral process.

Responding quickly to the wave of elections in the region, the OFE, taking into account the work and co-operation with other institutions, primary the Council of Europe, established assistance programs in countries holding parliamentary and presidential elections, as well as constitutional or other referenda. As a general rule, the Office invited international experts from North America and Western Europe (and increasingly from Eastern Europe as well) to election seminars held for national and local election officials. The OFE also serves as a channel for information between the main international delegations and the central election authorities, and provides necessary information and logistical assistance to the observers.

This pattern of assistance has been maintained and expanded in electoral contests in the region. The Office has organized successful seminars and observers assistance programs in Bulgaria, Poland, Albania, Romania, Estonia, Georgia, Lithuania, and the former republics of Yugoslavia. It has also co-sponsored

the establishment of the Regional Association of Electoral Officials for Central and Eastern Europe, a professional association for electoral experts which is now being expanded to include members from the former Soviet Union. At the request of some countries, the Office has reviewed draft electoral law to see if they meet CSCE standards and has coordinated international experts' commentary on the laws of Bulgaria, Albania, and Yugoslavia.

Human Dimension Mechanism

Soon after its establishment, the OFE began to take on a broader range of responsibilities within the CSCE's "Human Dimension," which foreshadowed the Office's eventual transformation into the Office for Democratic Institutions and Human Rights. At the direction of the CSCE's Committee of Senior Officials, the Director served as rapporteur in several fact-finding missions to Bosnia-Hercegovina, Croatia, Macedonia, Montenegro, Slovenia and Serbia--including Kosovo and Vojvodina. The Director and Deputy Director also participated in rapporteur missions to the newly admitted CSCE states: Albania, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Azerbaijan and Armenia.

Among the most important new duties of the ODIHR is its responsibility for managing the "Human Dimension Mechanism." The original mechanism, negotiated at the Vienna Follow-up Meeting (1986-89) and renewed and enhanced at a series of the CSCE Conferences of the Human Dimension (1990-91), mandates more effective exchange of information leading to bilateral follow-up meetings on cases and situations in the human dimension. Drawn from an official list of experts appointed by the CSCE participating States, a mission may be sent to report and propose solutions to possible human rights problems, following the activation of the Mechanism by the concerned State or by other participating States. If a mission of good office is deemed unsatisfactory or, if a state refuses a mission on its territory, a mandatory mission may be dispatched with the required support of other CSCE States. In cases of emergency, ten States may dispatch a compulsory mission without going first through the good offices phase. In addition, individual States may request the services of these experts in order to assist them in the further establishment of human rights standards and practices in their countries. Individual cases of violation of human dimension commitments may be brought by participating States through the mechanism paying due regard to whether the case is already sub judice in an international legal procedure. Thus far, the Human Dimension Mechanism has been activated three times: firstly, by the twelve States of the European Community and the United States vis-a-vis Croatia and Bosnia-Hercegovina on the issue of reports of atrocities and attacks on unarmed civilians; secondly, by Estonia to study Estonian legislation and to compare it, and its implementation, with universally accepted human rights norms; thirdly, by Moldova to investigate current legislation and implementation of minorities rights and inter-ethnic relations

on the territory of Moldova.

Seminars

The ODIHR is mandated to organize a variety of seminars either upon the request of the CSCE or at the invitation of institutions and States. The first CSCE mandated seminar, which focused on "Tolerance," took place in Warsaw, November 16-20, 1992. Delegations from nearly all participating States attended, as well as representatives of non-governmental organizations and international institutions. The discussion concentrated on three main subjects: the role of educational and cultural institutions as well as media in promoting tolerance; the role of local authorities in promoting tolerance; legal issues and law enforcement. In 1993, the Office will host seminars on migration, national minorities, and on the free media. The ODIHR in co-operation with another CSCE institution, the Conflict Prevention Center, will also organize seminars to help share experiences and increase knowledge of issues and techniques in the fields of early warning and peacekeeping.

In addition to these large seminars, the Office organizes a number of smaller meetings. Most of these are part of a program of coordinated support specifically designed to meet the needs of the newly admitted States of the CSCE. Whenever possible, these meetings take place in the new States and are geared to civil servants, the media, and the public at large. The ODIHR has already supported one such seminar for government officials from the new States, in parallel with the Helsinki Follow-up Meeting, and it later co-sponsored a series of seminars on Constitutional Law for the Islamic republics of the former Soviet Union, on Citizenship and Language Laws in the Newly Independent States of Europe, and on Juridical Reform and the Reform of Law in the Republic of Moldova. The Human Dimension seminars were an occasion to establish contacts and develop co-operation with various non-governmental organizations and international organizations, such as the specialized agencies of the United Nations, namely the UNDP, UNESCO or the UNHCR. The ODIHR has established a register of NGOs active in the field of the Human Dimension.

Finally, every year in which a follow-up review conference of the CSCE does not take place, the ODIHR will organize at its seat a three-week meeting at expert-level of all participating States to address and review implementation of CSCE Human Dimension commitments. The meeting will focus on a thorough exchange of views and evaluation of the procedures for monitoring and compliance with commitments, including the reports of CSCE missions, with considerations given on ways and means of further improvement.

The ODIHR Clearinghouse

Since its inception, the ODIHR has been expanding its

clearinghouse function to include a broad range of human rights topics. It is now collecting information from CSCE states to add to its database in Warsaw, which until now has been mainly related to elections. New information which will be available to interested governments, NGOs, research institutions, and individuals will include the following topics: Democratic Institution-building (government and non-governmental programs, publications and studies, points of contact); Human Rights (reports on compliance, information on programs promoting human rights); Census-taking (points of contact, experts and institutes in the field, assistance programs); and, National Minorities. A publication of the Human Dimension Handbook for Human Dimension experts/rapporteurs and election observers is already available to all interested parties upon request. Finally, the ODIHR is issuing a quarterly Bulletin keeping track of the latest activities in the field of the CSCE human dimension.

High Commissioner on National Minorities

Established at the Helsinki Follow-up Meeting in July 1992, the High Commissioner has been given a mandate to investigate problems related to national minorities by gathering information, including on-site missions, and promoting dialogue over situations which, in his/her opinion, have the potential to develop into conflict. In identifying and containing at the earliest possible stage tensions involving national minority issues which have the potential to develop into a conflict within the CSCE area, the High Commissioner will consult and report to the Chair-in-Office. If the High Commissioner considers the results of discussions at all levels with parties directly involved unsatisfactory, he/she may issue an early warning, which will be put on the agenda of the main decision-making body of the CSCE (the Committee of Senior Officials). Further action by the High Commissioner aimed at resolving the issue, or action on questions already under consideration by the Committee of Senior Officials, requires consensus of the CSCE participating States. In carrying its mandate, the High Commissioner will not consider violations of CSCE commitments with regard to an individual person belonging to a national minority.

The Stockholm Council of Foreign Ministers (December 1992) appointed former Dutch Foreign Minister Max van der Stoel as CSCE High Commissioner for National Minorities. The ODIHR is currently providing the Office of the High Commissioner with administrative and information service.

Relations with the United Nations

At the outset of the institutionalization of the CSCE process, co-operation with the United Nations was established. In the general elections in Albania (March, 1992), the OFE collaborated with the UN in monitoring the electoral process. At the CSCE Helsinki Summit 1992, a new phase of relations was inaugurated. Heads of State and Governments of the participating

States declared the CSCE to be a regional arrangement in the sense of Chapter VIIIof the UN Charter and called for closer co-operation between the CSCE and the UN. A CSCE human rights rapporteur mission to Bosnia-Hercegovina (August 1992) co-operated with the UN on the inspection of detention camps and other alleged human rights abuses which led to the direct representation of the CSCE at the London and Geneva Conferences on Yugoslavia. Similarly, a certain degree of co-ordination existed between the Special Rapporteur of the UN Commission on Human Rights, Mr. Tadeusz Mazowiecki, and the CSCE/ODIHR Mission to Croatia under the Human Dimension Mechanism (30 September to 5 October 1992). The same applies to co-operation between the UN and ODIHR mission to Moldova, the Long Duration Mission in Georgia and the CSCE Spill-over Mission in Scopje (Macedonia). As a follow-up to the recommendations of the Human Dimension Mission to Croatia that personal responsibility for war crimes be considered as well as the establishment of an *ad hoc* tribunal, proposals for setting up such a tribunal were drafted by the Mission and transmitted to the UN Security Council for examination.

The 16th CSCE Committee of Senior Officials (18 September, 1992), in close co-operation with the European Community, endorsed the establishment of Sanctions Assistance Missions in States neighboring Serbia and Montenegro to help implement UN Security Council resolutions #713 imposing an arms embargo against all the republics of the former Yugoslavia and #757 imposing mandatory sanctions against Serbia and Montenegro. The 19th Committee of Senior Officials later established the post of EC/CSCE Sanctions Coordinator to further improve, *inter alia*, liaison with the UN Security Council and Sanctions Committee.

In response to a letter from the UN Secretary General Boutros-Ghali requesting CSCE *in situ* assistance in implementing UN resolutions on the conflict in Bosnia-Hercegovina, CSCE has declared its readiness to co-ordinate individual or collective contributions by its members to peacekeeping activities including supervision of heavy weapons of the parties involved in the conflict.

The United Nations is invited to make contributions, take part in the information exchange, and/or attend CSCE meetings and seminars as guests of honor. While a proposal by the UN Secretary General to the CSCE to seek observer status at the CSCE is currently under examination, a decision has been made on the part of the CSCE to invite a representative of the United Nations Secretary General to the meetings of the Council of Ministers and the Committee of Senior Officials of the CSCE.

Conclusions

The Conference on Security and Cooperation in Europe underwent significant development in the post-communist period. More extensive procedures were developed and steps were taken towards establishing effective permanent institutions which would provide a forum for more regular political consultations and meetings on an increasing number of topics relevant to its participants whose membership was brought up to 53 states in 1993.

The CSCE Office for Democratic Institutions and Human Rights was established to meet some of those challenges of the changing European political environment of the 1990s. As the Office attempts to fulfill its Human Dimension responsibilities, it also faces few limitations on the way.

One procedural limitation of the ODIHR is connected with the political nature of the CSCE. Having no legally binding instruments of monitoring or enforcement, in cases of violation of the CSCE commitments by participating State(s), the ODIHR can only exert political pressure upon the concerned State; and in most cases, it can only rely on the goodwill of the state to carry out its implementation procedures. The Office may suggest an inquiry into an alleged breach of human dimension commitments and draw the attention of relevant CSCE bodies to cases of violation, but it cannot initiate the Human Dimension Mechanism itself. The ODIHR can best be described as the "conveyor belt" of CSCE exchange and action on specific issues related to its human dimension.

To some extent, the activities of the ODIHR are also conditioned by the self-imposed structure of the CSCE institutions. The CSCE, being essentially a political process, is a state-based organization dependent on political decisions made at the highest level, and as a result the ODIHR's mandate is to respond only to state requests. As the mandate of the Office in the area of human rights is reactive to participating States, the ODIHR may act on cases and human dimension issues, i.e send observers, only when an official mandate is given. Such a mandate comes from either the CSCE as a whole or by appropriate procedures spelled out in CSCE Documents. The ODIHR cannot act upon individual petitions brought to the attention by a concerned party itself, despite the increasing frequency of such individual requests for information and representations, with which ODIHR has been faced.

The future of the CSCE process will thus depend on its ability to further improve procedures and management of all the new activities, as well as on its ability to adapt to its changing role while remaining an effective political force which retains its original institutional flexibility and directness.

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